

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA

AUGUSTA DIVISION

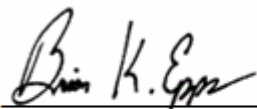
RICKY ALLEN,)	
)	
Plaintiff,)	
)	
v.)	CV 124-131
)	
RICHARD ROUNDTREE, et al.,)	
)	
Defendants.)	

MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION

Plaintiff filed the above-captioned case *pro se* on August 12, 2024. (Doc. no. 1.) Because he is proceeding *pro se*, the Court provided him with basic instructions regarding the development and progression of this case. (Doc. no. 3.) The Court explained Plaintiff is responsible for serving each Defendant in accordance with Federal Rule of Civil Procedure 4 and directed the Clerk of Court to attach a copy of Rule 4 to the August 12th Order so that Plaintiff could determine the appropriate method of service for Defendants. (*Id.* at 1.) The Court specifically informed Plaintiff, under Fed. R. Civ. P. 4(m), he had ninety days from the complaint filing to accomplish service and that failure to accomplish service could result in dismissal of individual Defendants or the entire case. (*Id.*) When the ninety days for effecting service under Fed. R. Civ. P. 4(m) expired and there was no evidence Defendant Wal-Mart Inc., had been served, the Court entered an Order directing Plaintiff to show cause why this Defendant should not be dismissed without prejudice for failure to timely effect service. (Doc. no. 29.)

In response, Plaintiff acknowledges he failed to serve Defendant Wal-Mart Inc., and requests that the dismissal for failure to timely effect service be without prejudice. (See doc. no. 30.) The Court also notes that because other defendants have appeared in the case, (see doc. nos. 9, 10), dismissal of this unserved Defendant will not completely deprive Plaintiff of the opportunity to litigate claims arising out of the events underlying this lawsuit. Accordingly, the Court **REPORTS** and **RECOMMENDS** that Defendant Wal-Mart Inc., and all of Plaintiff's claims against it, be **DISMISSED** without prejudice for failure to timely effect service. See Charles v. Bradshaw, 782 F. App'x 991, 992 (11th Cir. 2019) (*per curiam*).

SO REPORTED and RECOMMENDED this 20th day of November, 2024, at Augusta, Georgia.



BRIAN K. EPPS
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF GEORGIA